IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE ELEVENTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 17108 of 2004

Between:

M/s Sri Durga Wines C.B.Road, Srikakulam
Rep. by its Licencee Mr.Mulpuri Kiran
S/o.Krishna Prasad

..... PETITIONER

AND

The Superintendent Prohibition and Excise
Srikakulam, Srikakulam District.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ of Mandamus or any other appropriate writ order or direction declaring the action of the Respondent is not implementing the order of the Commissioner of Prohibition and Excise in Cr.No.16784/CPE/2004/G2, Dt.9.9.2004 duly permitting the Petitioner to shift the Licenced premises in accordance with the said order by effecting necessary corrections in the original Licence as illegal, arbitrary and unjust.

Counsel for the Petitioner: MR.K.CHIDAMBARAM

Counsel for the Respondent: GP FOR PROHIBITION & EXCISE

The Court at the stage of admission made the following ORDER:

The petitioner seeks a writ of Mandamus declaring that the action of the respondent in not implementing the order of the Commissioner of Prohibition and Excise dated 09-09-2004 duly permitting the petitioner to shift the licenced premises, as arbitrary and illegal.

The petitioner is a licensee of IL-24 and has been running the business in the name and style of “Sri Durga Wines” in the premises bearing D.No.12-9-5/3, C.B. Road, Srikakulam. However, he has proposed to shift his licenced premises to D.No.1-296, Kalinga Road and made an application to the Commissioner of Prohibition and Excise requesting to permit him to shift the licenced premises. It appears that the Commissioner of Prohibition&Excise by proceedings dated 09.09.2004 permitted the petitioner to shift the licenced premises and accordingly directed the respondent-Superintendent, Prohibition & Excise, Srikakulam District to take necessary action as per the rules. This writ petition is filed on 22-09-2004 contending that in spite of the fact that the petitioner has complied with all the statutory requirements, the respondent failed to take necessary action in compliance with the proceedings of the Commissioner of Prohibition and Excise, dated 09-09-2004.

On receipt of notice, the Sub-Divisional Prohibition & Excise Officer, Srikakulam filed counter-affidavit on behalf of the respondent admitting the fact that the Commissioner of Prohibition & Excise issued proceedings dated 09-09-2004 granting permission to the petitioner to shift the licensed premises. However, it is

stated that the Sarpanch of Kazipeta Panchayat and other people of Adityanagar Colony have submitted representations on 18-09-2004 stating that lakhs of people will visit the holy temple of Arasavalli and previously permission was granted to a bar in the above locality and after receipt of objections from the piligrims and devotees, the licence of the said bar was cancelled and subsequently, within a short distance, a bar was sanctioned and at present, it was running and again there are proposals for establishment of IL-24 shop near the temple and therefore, they requested not to establish IL-17 bar or IL-24 shop near the temple. It is further stated that previously, the Commissioner of Prohibition & Excise, A.P., Hyderabad, has sanctioned IL-17 licence for establishing a bar in the premises, where the petitioner M/s Sri Durga Wines-IL-24 proposed to shift the licensed premises. It is also stated that the proposals have been submitted after observing all the relevant rules under the A.P. Excise Act, however in view of the objections raised by the people of the locality residing in Kazipeta and Arasavalli rural for shifting IL-24 shop and so as to maintain the sanctity of Sri Arasavalli Suryanarayana Temple premises, a letter dated 18-09-2004 was addressed to the Commissioner of Prohibition & Excise, A.P., Hyderabad, to cancel the proceedings dated 09-09-2004 and the order of Commissioner of Prohibition & Excise is awaited.

When the writ petition is taken up for consideration, the learned counsel for the petitioner states that during the pendency of the writ petition, the proceedings of the Commissioner of Prohibition & Excise, dated 09-09-2004 have already been implemented and the petitioner has shifted the licenced premises to Door No.1-296, Kalinga road, and he has been running his business at the said premises.

Since the proceedings of the Commissioner of Prohibition & Excise, dated 09-09-2004 have already been implemented, no further adjudication is necessary in the writ petition. However, it is made clear that this shall not preclude the Commissioner of Prohibition & Excise, A.P., Hyderabad to pass the appropriate orders in pursuance of the letter of the respondent dated 18-09-2004 to revoke the proceedings dated 09-09-2004 or to pass any other appropriate orders following due process of law.

Accordingly, the writ petition is disposed of. No costs.

11-11-2004

kdl

To

1 The Superintendent Prohibition and Excise
Srikakulam, Srikakulam District.

2 Two C.Cs to the G.P. for Prohibition&Excise, High Court of A.P.,

Hyderabad.

3 Two C.D copies.